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7  
8 UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
9

10 DAVID MELGREN, on behalf of  
himself and all others similarly situated,

11 Plaintiff,

12 vs.

13 HEALTHY HALO INSURANCE  
SERVICES INC.,

14 Defendant.  
15

NO.

**COMPLAINT—CLASS ACTION**  
**DEMAND FOR JURY TRIAL**

16 David Melgren, individually and on behalf of others similarly situated,  
17 alleges the following against Defendant Healthy Halo Insurance Services Inc.  
18 (“Healthy Halo”).  
19  
20

## I. NATURE OF ACTION

1  
2 1. As the Supreme Court explained last year, “Americans passionately  
3 disagree about many things. But they are largely united in their disdain for  
4 robocalls. The Federal Government receives a staggering number of complaints  
5 about robocalls—3.7 million complaints in 2019 alone. The States likewise field  
6 a constant barrage of complaints. For nearly 30 years, the people’s  
7 representatives in Congress have been fighting back. As relevant here, the  
8 Telephone Consumer Protection Act of 1991, known as the TCPA, generally  
9 prohibits robocalls to cell phones and home phones.” *Barr v. Am. Ass’n of*  
10 *Political Consultants*, No. 19-631, 2020 U.S. LEXIS 3544, at \*5 (July 6, 2020).

11 2. Healthy Halo is an insurance company providing insurance products  
12 and services to consumers.

13 3. To promote these insurance products and services, Healthy Halo  
14 uses pre-recorded messages.

15 4. Healthy Halo made unsolicited pre-recorded calls to Plaintiff on his  
16 cellular telephone using pre-recorded messages.

17 5. Plaintiff now files this lawsuit seeking injunctive relief, requiring  
18 Healthy Halo to stop placing unsolicited calls to cellular telephone numbers, as  
19 well as an award of statutory damages and costs to class members.  
20

## II. JURISDICTION AND VENUE

6. This Court has federal question subject matter jurisdiction over this action under 28 U.S.C. § 1331, as the action arises under the Telephone Consumer Protection Act, 47 U.S.C. §227 (“TCPA”).

7. This Court has personal jurisdiction over Healthy Halo, and venue is proper in this District under 28 U.S.C. § 1391(b) because Defendant Healthy Halo made the calls to Plaintiff in this District.

## III. PARTIES

8. Plaintiff David Melgren is a citizen of Washington, residing in Adams County.

9. Defendant Healthy Halo Insurance Services Inc. is a California corporation with its principal place of business located at 110 West Providencia Avenue, Burbank, California 91502.

## IV. TCPA BACKGROUND

### A. The TCPA Prohibits Automated Telemarketing Calls

10. The TCPA makes it unlawful to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using an automatic telephone dialing system or an artificial or prerecorded voice to any telephone number assigned to a cellular telephone service or that is charged per the call. *See* 47 U.S.C. § 227(b)(1)(A)(iii).

1           11. The TCPA provides a private cause of action to persons who receive  
2 calls in violation of 47 U.S.C. § 227(b)(1)(A) or 47 U.S.C. § 227(b)(1)(B). *See*  
3 47 U.S.C. § 227(b)(3).

4           12. According to findings by the Federal Communication Commission  
5 (“FCC”), the agency Congress vested with authority to issue regulations  
6 implementing the TCPA, such calls are prohibited because, as Congress found,  
7 automated or prerecorded telephone calls are a greater nuisance and invasion of  
8 privacy than live solicitation calls, and such calls can be costly and inconvenient.

9           13. The FCC also recognized that “wireless customers are charged for  
10 incoming calls whether they pay in advance or after the minutes are used.” *In re*  
11 *Rules and Regulations Implementing the Tel. Consumer Prot. Act of 1991*, CG  
12 Docket No. 02-278, Report and Order, 18 F.C.C. Rcd. 14014, 14115 ¶ 165  
13 (2003).

14           14. In 2013, the FCC required prior express written consent for all  
15 autodialed or prerecorded telemarketing calls (“robocalls”) to wireless numbers  
16 and residential lines. Specifically, it ordered that:

17                   [A] consumer’s written consent to receive telemarketing  
18 robocalls must be signed and be sufficient to show that  
19 the consumer: (1) received “clear and conspicuous  
20 disclosure” of the consequences of providing the  
requested consent, i.e., that the consumer will receive  
future calls that deliver prerecorded messages by or on  
behalf of a specific seller; and (2) having received this

information, agrees unambiguously to receive such calls at a telephone number the consumer designates.[] In addition, the written agreement must be obtained “without requiring, directly or indirectly, that the agreement be executed as a condition of purchasing any good or service.[]”

*In the Matter of Rules & Regulations Implementing the Tel. Consumer Prot. Act of 1991*, 27 F.C.C. Rcd. 1830, 1844 (2012) (footnotes omitted).

## V. FACTUAL ALLEGATIONS

### A. Factual Allegations Regarding Defendant

15. Healthy Halo is an insurance company located in Burbank, California. See <https://healthyhalo.com/> (last visited March 1, 2021).

16. Healthy Halo provides “VIP Healthcare Services . . . that are unique in the healthcare marketplace to reduce or eliminate surprise medical bills.” <https://healthyhalo.com/about/> (last visited March 1, 2021).

17. On information and belief, Healthy Halo utilizes numerous websites to promote its insurance services, including healthyhalo.com, truckershealthcare.com, wahealthcareplans.com, buyhealthinsurance.com, healthsharing.com, and healthmarketplace.net.

18. According to its website, Healthy Halo, “in just over 5 years, [has] grown from a 2-person startup to the 3rd largest national telesales agency.” <https://healthyhalo.com/about/> (last visited March 1, 2021).

1           19. One of Healthy Halo’s strategies for marketing its insurance  
2 products includes the use of pre-recorded messages.

3           20. Recipients of these pre-recorded calls, including Plaintiff, did not  
4 consent to receive such calls.

5 **B. Factual Allegations Regarding Plaintiff**

6           21. Plaintiff is, and all times mentioned herein was, a “person” as  
7 defined by 47 U.S.C. § 153(39).

8           22. Plaintiff’s telephone number, (XXX) XXX-9181, is assigned to a  
9 cellular telephone service.

10          23. Plaintiff has never been a Healthy Halo customer and never  
11 consented to receive calls from Healthy Halo.

12          24. On January 14, 2021, Plaintiff received a pre-recorded call on his  
13 cellular telephone from Health Halo promoting insurance products.

14          25. The pre-recorded message identified the caller as “Scott” with  
15 “Truckers Healthcare.”

16          26. The pre-recorded message asked Plaintiff to call (833) 682-8223.

17          27. Plaintiff was not interested and had not requested information  
18 regarding insurance products.

1           28.   Calls associated with telephone number (833) 682-8223 have been  
2 associated as “robocalls” and telemarketing spam. *See* <https://bit.ly/3sy3wDo>  
3 (last visited February 26, 2021).

4           29.   A call to (833) 682-8223 reveals that the website for that company is  
5 [truckershealthcare.com](http://truckershealthcare.com).

6           30.   The [truckershealthcare.com](http://truckershealthcare.com) domain is registered to Health Halo. *See*  
7 [https://www.godaddy.com/whois/results.aspx?checkAvail=1&tmskey=tmskey%3](https://www.godaddy.com/whois/results.aspx?checkAvail=1&tmskey=tmskey%3D123&domain=truckershealthcare.com)  
8 [D123&domain=truckershealthcare.com](https://www.godaddy.com/whois/results.aspx?checkAvail=1&tmskey=tmskey%3D123&domain=truckershealthcare.com) (last visited March 1, 2021).

9           31.   On January 15, 2021, Plaintiff received an identical pre-recorded  
10 call on his cellular telephone from Health Halo promoting insurance products that  
11 he received on January 14, 2021.

12           32.   The pre-recorded message again identified the caller as “Scott” with  
13 “Truckers Healthcare” and asked Plaintiff to call (833) 682-8223.

14           33.   Healthy Halo is responsible for making the above-described calls.

15           34.   Plaintiff and other individuals who received these calls suffered an  
16 invasion of privacy and were harassed by the conduct of Defendant.

## 17                                   **VI. CLASS ACTION ALLEGATIONS**

18           35.   Plaintiff incorporates by reference all other paragraphs of this  
19 Complaint as if fully stated herein.  
20

1           36. As authorized by Rule 23(b)(2) or (b)(3) of the Federal Rules of  
2 Civil Procedure, Plaintiff brings this action on behalf of a class of all other  
3 persons or entities similarly situated throughout the United States (the “Class”).

4           37. Plaintiff proposes the following Class definition, subject to  
5 amendment as appropriate:

6                   All persons within the United States: (1) to whose cellular  
7 telephone number or other number for which they are  
8 charged for the call; (2) Defendant (or an agent acting on  
9 behalf of Defendant) placed a telemarketing call; (3)  
10 within the four years prior to the filing of the Complaint;  
11 and (4) using an identical or substantially similar pre-  
12 recorded message used to place the telephone call to  
13 Plaintiff.

14           38. Excluded from the Class are counsel, Defendant, any entities in  
15 which Defendant has a controlling interest, Defendant’s agents and employees,  
16 any judge to whom this action is assigned, and any member of such judge’s staff  
17 and immediate family.

18           39. Plaintiff is a member of and will fairly and adequately represent and  
19 protect the interests of the Class as he has no interests that conflict with any of  
20 the Class members.

          40. Plaintiff and all members of the Class have been harmed by the acts  
of Defendant, including, but not limited to, the invasion of their privacy,  
annoyance, waste of time, the use of their telephone power and network



1 bandwidth, and the intrusion on their telephone that occupied it from receiving  
2 legitimate communications.

3 41. This Class Action Complaint seeks injunctive relief and money  
4 damages.

5 42. The Class, as defined above, is identifiable through Defendant's  
6 dialer records, other telephone records, and telephone number databases.

7 43. Plaintiff does not know the exact number of members in the Class,  
8 but Plaintiff reasonably believes Class members number, at minimum, in the  
9 hundreds.

10 44. The joinder of all Class members is impracticable due to the size and  
11 relatively modest value of each individual claim.

12 45. Additionally, the disposition of the claims in a class action will  
13 provide substantial benefit to the parties and the Court in avoiding a multiplicity  
14 of identical suits.

15 46. There are well defined, nearly identical questions of law and fact  
16 affecting all parties. The questions of law and fact, referred to above, involving  
17 the Class claims predominate over questions that may affect individual Class  
18 members.

19 47. There are numerous questions of law and fact common to Plaintiff  
20 and to the proposed Class, including but not limited to the following:

1           a.     Whether Defendant used pre-recorded messages to send calls;

2           b.     Whether Defendant made calls to Plaintiff and members of  
3 the Class without first obtaining prior express written consent to make the calls;

4           c.     Whether Defendant's conduct constitutes a violation of the  
5 TCPA; and

6           d.     Whether members of the Class are entitled to treble damages  
7 based on the willfulness of Defendant's conduct.

8           48.    Plaintiff's claims are typical of the claims of the Classes. Plaintiff's  
9 claims, like the claims of Classes, arise out of the same common course of  
10 conduct by Defendant and are based on the same legal and remedial theories.

11           49.    Plaintiff will fairly and adequately protect the interests of the Class.  
12 Plaintiff has retained counsel with substantial experience in prosecuting complex  
13 litigation and class actions, and especially TCPA class actions. Plaintiff and his  
14 counsel are committed to vigorously prosecuting this action on behalf of the other  
15 members of the Class and have the financial resources to do so. Neither Plaintiff  
16 nor his counsel have interests that are contrary to or that conflict with those of the  
17 proposed Class.

18           50.    Common questions of law and fact predominate over questions  
19 affecting only individual Class members, and a class action is the superior  
20 method for fair and efficient adjudication of the controversy. The only individual

1 question concerns identification of Class members, which will be ascertainable  
2 from records maintained by Defendant and/or its agents.

3       51. A class action is the superior method for the fair and efficient  
4 adjudication of this controversy. Classwide relief is essential to compel  
5 Defendant to comply with the TCPA. The interest of individual members of the  
6 Classes in individually controlling the prosecution of separate claims against  
7 Defendant are small because the damages in an individual action for violation of  
8 the TCPA are small. Management of these claims is likely to present significantly  
9 fewer difficulties than are presented in many class claims. Class treatment is  
10 superior to multiple individual suits or piecemeal litigation because it conserves  
11 judicial resources, promotes consistency and efficiency of adjudication, provides  
12 a forum for small claimants, and deters illegal activities. There will be no  
13 significant difficulty in the management of this case as a class action.

14       52. Defendant has acted on grounds generally applicable to the Class,  
15 thereby making final injunctive relief and corresponding declaratory relief with  
16 respect to the Class appropriate on a classwide basis. Moreover, on information  
17 and belief, Plaintiff alleges that the pre-recorded calls made by Defendant and/or  
18 its affiliates, agents, and/or other persons or entities acting on Defendant's behalf  
19 that are complained of herein are substantially likely to continue in the future if  
20 an injunction is not entered.

1           53. Plaintiff is not aware of any litigation concerning this controversy  
2 already commenced by others who meet the criteria for class membership  
3 described above.

4                                   **FIRST CAUSE OF ACTION**  
5                   **Violation of the Telephone Consumer Protection Act**  
6                   **(47 U.S.C. 227(b) on behalf of the Robocall Class)**

7           54. Plaintiff incorporates the allegations from all previous paragraphs as  
8 if fully set forth herein.

9           55. The foregoing acts and omissions of Defendant and/or its affiliates,  
10 agents, and/or other persons or entities acting on Defendant's behalf constitute  
11 numerous and multiple violations of the TCPA, 47 U.S.C. § 227, by making  
12 calls, except for emergency purposes, and delivering pre-recorded messages to  
13 the cellular telephone numbers of Plaintiff and members of the Class.

14           56. As a result of Defendant's and/or its affiliates, agents, and/or other  
15 persons or entities acting on Defendant's behalf's violations of the TCPA,  
16 47 U.S.C. § 227, Plaintiff and members of the Class presumptively are entitled to  
17 an award of \$500 in damages for each and every call made to their residential or  
18 cellular telephone numbers using an artificial or pre-recorded voice in violation  
19 of the statute, pursuant to 47 U.S.C. § 227(b)(3)(B).  
20

1           57. If the Defendant's conduct is found to be knowing or willful,  
2 Plaintiff and members of the Class are entitled to an award of up to treble  
3 damages.

4           58. Plaintiff and members of the Class are also entitled to and do seek  
5 injunctive relief prohibiting Defendant and/or its affiliates, agents, and/or other  
6 persons or entities acting on Defendant's behalf from violating the TCPA,  
7 47 U.S.C. § 227, by making calls, except for emergency purposes, to any cellular  
8 telephone numbers using an artificial or prerecorded voice in the future.

## 9                               **VII. PRAYER FOR RELIEF**

10           **WHEREFORE**, Plaintiff, individually and on behalf of the Class, prays  
11 for the following relief:

12           A. Injunctive relief prohibiting Defendant from calling telephone  
13 numbers advertising their goods or services, except for emergency purposes, to  
14 any number using a pre-record message in the future;

15           B. That the Court enter a judgment awarding Plaintiff and all Class  
16 members statutory damages of \$500 for each violation of the TCPA and \$1,500  
17 for each knowing or willful violation; and

18           C. An order certifying this action to be a proper class action pursuant to  
19 Federal Rule of Civil Procedure 23, establishing an appropriate Class the Court  
20 deems appropriate, finding that Plaintiff is a proper representative of the Class,

1 and appointing the lawyers and law firms representing Plaintiff as counsel for the  
2 Class;

3 D. Such other relief as the Court deems just and proper.

4 **VIII. DEMAND FOR JURY TRIAL**

5 Plaintiff hereby demands a trial by jury.

6 RESPECTFULLY SUBMITTED AND DATED this 2nd day of March,  
7 2021.

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